

WASHINGTON, D.C. 20505

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28 March 1974

Mr. Robert L. Saloschin
Office of Legislative Counsel
Department of Justice
Washington, D. C. 20530

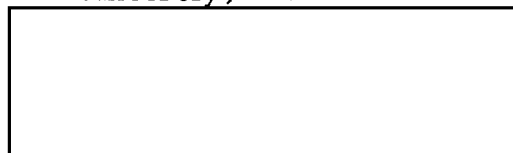
Dear Mr. Saloschin:

In line with our several telephone conversations, CIA would suggest the addition of the following language in subparagraph (B) which ends on line 21 of page 3 of the March 25 Committee Print of S.2543: "The court shall not invalidate a determination by a department or agency that records are to be withheld under the exemption set forth in subsection (b)(1) unless the court determines that the determination was arbitrary and capricious." We agree that the substantial evidence concept you mentioned would improve the bill in its present form and if our language cannot be obtained the substantial evidence concept could be a fall-back position.

On reflection, we agree that only in camera inspection is permitted by the bill. For safety, it might be well to develop some supporting legislative history.

We wonder what the proposed amendment to Exemption 1 does to Exemption 3. Possibly it removes from Exemption 3 statutes concerning national defense or foreign policy. If so, it is objectionable. We agree with the objections you indicated Treasury has made known to you, namely, the strict time limits, the penalty against personnel (including the new penalties in the Committee Print) and the reporting requirements. If we have other suggestions we will get them to you as fast as possible.

Sincerely,



Associate General Counsel

STATINTL

cc: OLC ✓